

# CHOATE

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August 10, 2018

## Via ECF and Fax

Honorable Paul G. Gardephe, U.S.D.J.  
United States District Court  
Southern District of New York  
40 Foley Square, Room 705  
New York, NY 10007

Re: *Starr Surplus Lines Insurance Company and Houston Casualty Company v.  
CRF Frozen Foods, LLC*, Civil Action No. 17-cv-1030 (PGG)

Dear Judge Gardephe:

Starr Surplus Lines Insurance Company (“Starr”), Houston Casualty Company (“HCC”), and CRF Frozen Foods, LLC (“CRF”) submit this joint letter to report to the Court on the progress of additional discovery. This letter updates the parties’ joint letter to you of July 10, 2018.

As Your Honor may recall, on April 11, 2018, Judge Freeman ordered that Starr and HCC search for and produce certain documents<sup>1</sup> and further Ordered CRF to review and produce relevant, non-privileged documents for over a two-year span, that are responsive to Phase I of this matter, dated from October 16, 2015 through February 10, 2017.

As of July 10, 2018, CRF had made supplemental productions of approximately 10,000 additional documents. In the parties’ last joint letter, CRF indicated that it anticipated making an additional production of approximately 3,400 documents in the coming days, and anticipated producing its privilege log on or about July 31, 2018. On July 20, 2018, CRF made a supplemental production of approximately 2,900 additional documents. CRF has indicated that, at present, it does not anticipate making further significant document productions. Starr and HCC are in the process of completing their respective reviews of the additional documents produced, to date, by CRF.

On July 31, 2018, CRF produced a privilege log, which identifies what Starr and HCC believe to be a substantial number of documents as being privileged. Starr and HCC have advised CRF that they are in the process of reviewing that log against the requirements of Fed. R. Civ. P.

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<sup>1</sup> On May 3, 2018, HCC made a supplemental production and Starr represented it was unable to identify any further responsive documents.

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26(b)(5) and Local Rule 26.2. Starr and HCC have already indicated to CRF that they have certain concerns about CRF's supplemental privilege log. CRF is reviewing those concerns. CRF is also reviewing the privilege logs previously produced by Starr and HCC in December 2017 to determine compliance with the Rules and in light of the concerns raised by Starr and HCC with respect to CRF's log. CRF has also raised concerns regarding an expert retained by Starr and HCC testifying that he was unable to answer certain questions during that expert's deposition, citing confidentiality obligations. The parties are working in good faith to address the issues and concerns, including through meet and confer conferences.

Once the parties have addressed their discovery issues in a meet and confer, the parties will be better able to determine if motion practice is necessary and/or if further depositions are required. Starr and HCC have already indicated that in their view, limited additional deposition testimony will likely be necessary.

The parties propose providing the Court with another update on their progress on or before August 24, 2018.

Sincerely yours,

/s/ John A. Nadas  
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cc: All counsel of record via ECF